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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 09/652,168  | 08/31/2000  | Jeffrey L. Huckins   | INTL-0453-US (P9661) | 2633             |
| 21906   | 7590        | 03/27/2006           | EXAMINER             |                  |
| TROP PRUNER & HU, PC<br>8554 KATY FREEWAY<br>SUITE 100<br>HOUSTON, TX 77024 |             |                      | NGUYEN, DUSTIN       |                  |
|   |             |                      | ART UNIT             | PAPER NUMBER     |
|   |             |                      | 2154                 |                  |

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|---|--------------------------------------|--|--|
| <b>Advisory Action</b><br><b>Before the Filing of an Appeal Brief</b> | <b>Application No.</b><br>09/652,168 | <b>Applicant(s)</b><br>HUCKINS, JEFFREY L. |  |
|   | <b>Examiner</b><br>Dustin Nguyen     | <b>Art Unit</b><br>2154                    |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none.
- Claim(s) objected to: none.
- Claim(s) rejected: 45-55.
- Claim(s) withdrawn from consideration: none.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

  
**JOHN FOLLANSBEE**  
 SUPERVISORY PATENT EXAMINER  
 TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because:

1. As per remarks, Applicants agreed that Hofmann merely teaches that various discovery agents in a system each include a unique associated identifier and Applicants' argued that (1) that the unique associated identifier is nowhere disclosed in Hofmann to be an address.
2. As to point (1), the Merriam-Webster's Collegiate Dictionary defines address as to identify (as a peripheral or memory location) by an address or a name for information transfer. In this case, Hofmann discloses plurality of discovery agents [ 14A-D, Figure 1 ] and each discovery agent includes a unique associated identifier or name [ Abstract; col 5, lines 54-56 and lines 62-63; and col 11, lines 15-16 ].
3. As per remarks, Applicants' argued that (2) Hofmann fails to teach a client system that is of a multicast system.
4. As to point (2), it is rejected for similar reasons as mentioned in the Final Office Action.
5. As per remarks, Applicants' argued that (3) Hofmann nowhere teaches either sending of a single message to multiple client systems of a multicast system or determining whether such a message received by Hofmann's client system 10 is addressed to an agent thereon.
6. As to point (3), Hofmann teaches a server stores various discovery agents and discovery rules for transmission to one or more clients, which are then activated or executed by the discovery engine contained in the client [ i.e. sending of a message to multiple clients ] [ col 5, lines 16-19 ].
7. As per remarks, Applicants' argued that (4) Hofmann nowhere teaches the presence of a multicast network.
8. As to point (4), the limitation is rejected since Kauffman discloses the above limitation as mentioned in the Final Office Action.
9. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).
10. As per remarks, Applicants' argued that (5) Fletcher does not teach or suggest a short message service message.
11. As to point (5), Fletcher discloses a message is displayed to the user when the software component is updated [ i.e. short message service ] [ col 13, lines 36-39 ]. In addition, Hofmann discloses displaying a message to the user of the client [ col 6, lines 43-45 ].
12. As per remarks, Applicants' argued that (6) Fletcher neither teaches or suggests messages that include software and messages that do not include software.
13. As to point (6), Fletcher discloses the above limitation [ i.e. packet contains a data payload which holds the data the user is interested in receiving or holds a control message used for configuring ] [ col 2, lines 13-15 ].
14. As per remarks, Applicants' argued that (7) neither reference anywhere teaches or suggests determining if a message is directed to a given agent of a client system "based upon a service identifier associated with the agent".
15. As to point (7), Hofmann discloses determining if a message is directed to a given agent of a client system based upon a service identifier associated with the agent [ i.e. the DiskDriveStatus discovery rule can be executed using data collected by the disk drive information discovery agent ] [ Figures 3 and 4; and col 7, lines 63-col 8, lines 14 ].